

AMENDED IN SENATE JUNE 19, 2013

AMENDED IN ASSEMBLY MAY 8, 2013

AMENDED IN ASSEMBLY APRIL 18, 2013

AMENDED IN ASSEMBLY MARCH 21, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

## ASSEMBLY BILL

**No. 1126**

---

**Introduced by Assembly Members Gordon and Mullin  
(Principal coauthor: Assembly Member Wilk)**

February 22, 2013

---

An act to amend Sections ~~40116.1~~, 40121, 40180, 40192, 40194, 40200, 40201, 41700, 41721, 41781, and 50001 of, and to add Section ~~40150.5~~ 40131.2 to, the Public Resources Code, relating to solid waste.

### LEGISLATIVE COUNSEL'S DIGEST

AB 1126, as amended, Gordon. Solid waste: biomass conversion: *engineered* municipal solid waste (~~MSW~~) (*EMSW*) conversion.

(1) The California Integrated Waste Management Act of 1989 (act), which is administered by the Department of Resources Recycling and Recovery, requires each city, county, and regional agency, if any, to develop a source reduction and recycling element of an integrated waste management plan. With certain exceptions, the source reduction and recycling element of that plan is required to divert 50% of all solid waste, through source reduction, recycling, and composting activities. Existing law allows the 50% diversion requirement to include, pursuant to specified conditions, not more than 10% through biomass conversion, which is defined as the controlled combustion of specific materials for use in producing electricity or heat.

This bill would define the terms ~~“MSW~~ “*EMSW* conversion” and ~~“MSW~~ “*EMSW* conversion facility,” and would make conforming changes to existing definitions with regard to those operations and facilities. ~~The bill would also revise the definition of “composting” to include the anaerobic digestion of organic waste.~~

(2) The act requires the integrated waste management plan required to be adopted by a county to include a countywide siting element that provides a description of the areas to be used for the development of certain facilities. The act excludes certain solid wastes, for purposes of determining the base rate for the diversion of solid waste, and requires that the amount of solid waste diverted include solid waste diverted from a disposal facility or transformation facility.

This bill would require the countywide siting element to include a description of the areas to be used for the development of adequate ~~MSW~~ *EMSW* conversion, thereby imposing a state-mandated local program by imposing new duties upon local agencies.

This bill would additionally exclude certain used or waste tires or biomass materials from the solid waste calculation used in that base rate determination and would require the amount of solid waste to include solid waste diverted from an ~~MSW~~ *EMSW* conversion facility.

(3) Existing law prohibits a person from establishing or expanding a solid waste facility in a county, after a countywide or regional agency integrated waste management plan has been approved, unless the solid waste facility is, among other things, a disposal facility or a transformation facility that meets certain criteria.

This bill would additionally include, as one of those facilities, an ~~MSW~~ *EMSW* conversion facility.

(4) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1     ~~SECTION 1. Section 40116.1 of the Public Resources Code~~  
2     ~~is amended to read:~~

1     ~~40116.1. (a) “Composting” means the controlled or~~  
2 ~~uncontrolled biological decomposition of organic wastes.~~

3     ~~(b) “Composting” also includes the anaerobic digestion of~~  
4 ~~organic wastes.~~

5     ~~SEC. 2.~~

6     ~~SECTION 1.~~ Section 40121 of the Public Resources Code is  
7 amended to read:

8     40121. “Disposal facility” or “facility” means a facility or  
9 location where disposal of solid waste occurs or an ~~MSW EMSW~~  
10 conversion facility.

11     ~~SEC. 3.~~ Section 40150.5 is added to the Public Resources Code,  
12 to read:

13     ~~40150.5. (a) “Municipal solid waste conversion” or “MSW~~  
14 ~~conversion” means the conversion of solid waste through a process~~  
15 ~~that meets all of the following requirements:~~

16     ~~(1) The waste to be converted is beneficial and effective in that~~  
17 ~~it replaces or supplements the use of fossil fuels.~~

18     ~~(2) The waste to be converted, the resulting ash, and any other~~  
19 ~~products of conversion do not meet the criteria or guidelines for~~  
20 ~~the identification of a hazardous waste adopted by the Department~~  
21 ~~of Toxic Substances Control pursuant to Section 25141 of the~~  
22 ~~Health and Safety Code.~~

23     ~~(3) The conversion is efficient and maximizes the net calorific~~  
24 ~~value and burn rate of the waste.~~

25     ~~(4) The waste to be processed contains less than 25 percent~~  
26 ~~moisture and less than 10 percent noncombustible waste.~~

27     ~~(5) The waste to be processed that is received at the facility is~~  
28 ~~handled in compliance with the requirements for the handling of~~  
29 ~~solid waste imposed pursuant to this division, and no more than a~~  
30 ~~seven-day supply of that waste, based on the throughput capacity~~  
31 ~~of the operation or facility, is stored at the facility at any one time.~~

32     ~~(6) No more than 500 tons per day of waste is converted at the~~  
33 ~~facility where the operation takes place.~~

34     ~~(b) “Municipal solid waste conversion facility” or “MSW~~  
35 ~~facility” means a facility where municipal solid waste conversion~~  
36 ~~that meets the requirements of subdivision (a) takes place.~~

37     ~~SEC. 2.~~ Section 40131.2 is added to the Public Resources Code,  
38 to read:

1     40131.2. (a) “Engineered municipal solid waste conversion”  
2     or “EMSW conversion” means the conversion of solid waste  
3     through a process that meets all of the following requirements:

4     (1) The waste to be converted is beneficial and effective in that  
5     it replaces or supplements the use of fossil fuels.

6     (2) The waste to be converted, the resulting ash, and any other  
7     products of conversion do not meet the criteria or guidelines for  
8     the identification of a hazardous waste adopted by the Department  
9     of Toxic Substances Control pursuant to Section 25141 of the  
10    Health and Safety Code.

11    (3) The conversion is efficient and maximizes the net calorific  
12    value and burn rate of the waste.

13    (4) The waste to be converted contains less than 25 percent  
14    moisture and less than 25 percent noncombustible waste.

15    (5) The waste received at the facility for conversion is handled  
16    in compliance with the requirements for the handling of solid waste  
17    imposed pursuant to this division, and no more than a seven-day  
18    supply of that waste, based on the throughput capacity of the  
19    operation or facility, is stored at the facility at any one time.

20    (6) No more than 500 tons per day of waste is converted at the  
21    facility where the operation takes place.

22    (7) After conversion, the waste has a value of 5,000 BTU per  
23    pound.

24    (b) “Engineered municipal solid waste conversion facility” or  
25    “EMSW facility” means a facility where municipal solid waste  
26    conversion that meets the requirements of subdivision (a) takes  
27    place.

28    ~~SEC. 4.~~

29    SEC. 3. Section 40180 of the Public Resources Code is  
30    amended to read:

31    40180. “Recycle” or “recycling” means the process of  
32    collecting, sorting, cleansing, treating, and reconstituting materials  
33    that would otherwise become solid waste, and returning them to  
34    the economic mainstream in the form of raw material for new,  
35    reused, or reconstituted products which meet the quality standards  
36    necessary to be used in the marketplace. “Recycling” does not  
37    include transformation, as defined in Section 40201 or ~~MSW~~  
38    EMSW conversion.

~~SEC. 5.~~

SEC. 4. Section 40192 of the Public Resources Code is amended to read:

40192. (a) Except as provided in subdivisions (b) and (c), “solid waste disposal,” “disposal,” or “dispose” means the final deposition of solid wastes onto land, into the atmosphere, or into the waters of the state.

(b) For purposes of Part 2 (commencing with Section 40900), “solid waste disposal,” “dispose,” or “disposal” means the management of solid waste through landfill disposal, transformation, or ~~MSW EMSW~~ conversion, at a permitted solid waste facility, unless the term is expressly defined otherwise.

(c) For purposes of Chapter 16 (commencing with Section 42800) and Chapter 19 (commencing with Section 42950) of Part 3, Part 4 (commencing with Section 43000), Part 5 (commencing with Section 45000), Part 6 (commencing with Section 45030), and Chapter 2 (commencing with Section 47901) of Part 7, “solid waste disposal,” “dispose,” or “disposal” means the final deposition of solid wastes onto land.

~~SEC. 6.~~

SEC. 5. Section 40194 of the Public Resources Code is amended to read:

40194. “Solid waste facility” includes a solid waste transfer or processing station, a composting facility, a gasification facility, a transformation facility, an ~~MSW EMSW~~ conversion facility, and a disposal facility. For purposes of Part 5 (commencing with Section 45000), “solid waste facility” additionally includes a solid waste operation that may be carried out pursuant to an enforcement agency notification, as provided in regulations adopted by the department.

~~SEC. 7.~~

SEC. 6. Section 40200 of the Public Resources Code is amended to read:

40200. (a) “Transfer or processing station” or “station” includes those facilities utilized to receive solid wastes, temporarily store, separate, convert, or otherwise process the materials in the solid wastes, or to transfer the solid wastes directly from smaller to larger vehicles for transport, and those facilities utilized for transformation.

(b) “Transfer or processing station” or “station” does not include any of the following:

(1) A facility, whose principal function is to receive, store, separate, convert, or otherwise process in accordance with state minimum standards, manure.

(2) A facility, whose principal function is to receive, store, convert, or otherwise process wastes that have already been separated for reuse and are not intended for disposal.

(3) The operations premises of a duly licensed solid waste handling operator who receives, stores, transfers, or otherwise processes wastes as an activity incidental to the conduct of a refuse collection and disposal business in accordance with regulations adopted pursuant to Section 43309.

(4) An ~~MSW~~ *EMSW* conversion facility.

~~SEC. 8.~~

*SEC. 7.* Section 40201 of the Public Resources Code is amended to read:

40201. “Transformation” means incineration, pyrolysis, distillation, or biological conversion other than composting. “Transformation” does not include composting, gasification, ~~MSW~~ *EMSW* conversion, or biomass conversion.

~~SEC. 9.~~

*SEC. 8.* Section 41700 of the Public Resources Code is amended to read:

41700. Each county shall prepare a countywide siting element that provides a description of the areas to be used for development of adequate transformation, ~~MSW~~ *EMSW* conversion, or disposal capacity concurrent and consistent with the development and implementation of the county and city source reduction and recycling elements adopted pursuant to this part.

~~SEC. 10.~~

*SEC. 9.* Section 41721 of the Public Resources Code is amended to read:

41721. (a) The countywide siting element shall be approved by the county and by a majority of the cities within the county that contain a majority of the population of the incorporated area of the county except in those counties that have only two cities, in which case the element is subject to approval of the city that contains the majority of the population of the incorporated area of the county. Each city shall act upon the countywide siting element

1 within 90 days after receipt of the siting element. If a city fails to  
2 act upon the siting element within 90 days after receiving the siting  
3 element, the city shall be deemed to have approved the siting  
4 element as submitted.

5 (b) Notwithstanding subdivision (a), a siting element providing  
6 for an ~~MSW~~ EMSW conversion facility is only required to be  
7 approved by the city in which it is located, or if the ~~MSW~~ EMSW  
8 is not located in a city, by the county.

9 ~~SEC. 11.~~

10 *SEC. 10.* Section 41781 of the Public Resources Code is  
11 amended to read:

12 41781. (a) Except as provided in Sections 41781.1, and  
13 41781.2, for the purpose of determining the base rate of solid waste  
14 from which diversion requirements shall be calculated, “solid  
15 waste” includes only the following:

16 (1) The amount of solid waste generated within a local agency’s  
17 jurisdiction, the types and quantities of which were disposed of at  
18 a permitted disposal facility as of January 1, 1990. Nothing in this  
19 section requires local agencies to perform waste characterization  
20 in addition to the waste characterization requirements established  
21 under Sections 41030, 41031, 41330, 41331, and 41332.

22 (2) The amount of solid waste diverted from a disposal facility,  
23 transformation facility, or ~~MSW~~ EMSW facility, through source  
24 reduction, recycling, or composting.

25 (b) For the purposes of this section, “solid waste” does not  
26 include any of the following:

27 (1) Solid waste that would not normally be disposed of at a  
28 disposal facility.

29 (2) Used or waste tires, as defined in Article 1 (commencing  
30 with Section 42800) of Chapter 16 of Part 3, or biomass material,  
31 as described in subdivision (a) of Section 40106, which are  
32 converted at an ~~MSW~~ EMSW conversion facility.

33 (c) For the purposes of this chapter, the amount of solid waste  
34 from which the required reductions are measured shall be the  
35 amount of solid waste existing on January 1, 1990, with future  
36 adjustments for increases or decreases in the quantity of waste  
37 caused only by changes in population or changes in the number  
38 or size of governmental, industrial, or commercial operations in  
39 the jurisdiction.

1     ~~SEC. 12.~~

2     *SEC. 11.* Section 50001 of the Public Resources Code is  
3 amended to read:

4     50001. (a) Except as provided by subdivision (b), after a  
5 countywide or regional agency integrated waste management plan  
6 has been approved by the Department of Resources Recycling and  
7 Recovery pursuant to Division 30 (commencing with Section  
8 40000), a person shall not establish or expand a solid waste facility,  
9 as defined in Section 40194, in the county unless the solid waste  
10 facility meets one of the following criteria:

11     (1) The solid waste facility is a disposal facility, a transformation  
12 facility, or an ~~MSW~~ *EMSW* conversion facility, the location of  
13 which is identified in the countywide siting element or amendment  
14 to that element, which has been approved pursuant to Section  
15 41721.

16     (2) The solid waste facility is a facility that is designed to  
17 recover for reuse or recycling at least 5 percent of the total volume  
18 of material received by the facility, and that is identified in the  
19 nondisposal facility element that has been approved pursuant to  
20 Section 41800 or is included in an update to that element.

21     (b) Solid waste facilities other than those specified in paragraphs  
22 (1) and (2) of subdivision (a) shall not be required to comply with  
23 the requirements of this section.

24     (c) The person or agency proposing to establish a solid waste  
25 facility shall prepare and submit a site identification and description  
26 of the proposed facility to the task force established pursuant to  
27 Section 40950. Within 90 days after the site identification and  
28 description is submitted to the task force, the task force shall meet  
29 and comment on the proposed solid waste facility in writing. These  
30 comments shall include, but are not limited to, the relationship  
31 between the proposed solid waste facility and the implementation  
32 schedule requirements of Section 41780 and the regional impact  
33 of the facility. The task force shall transmit these comments to the  
34 person or public agency proposing establishment of the solid waste  
35 facility, to the county, and to all cities within the county. The  
36 comments shall become part of the official record of the proposed  
37 solid waste facility.

38     (d) The review and comment by the local task force shall not  
39 be required for an update to a nondisposal facility element.



1     ~~SEC. 13.~~

2     *SEC. 12.* No reimbursement is required by this act pursuant to  
3     Section 6 of Article XIII B of the California Constitution because  
4     a local agency or school district has the authority to levy service  
5     charges, fees, or assessments sufficient to pay for the program or  
6     level of service mandated by this act, within the meaning of Section  
7     17556 of the Government Code.

O